American Bridge

Trump Policy Brief: Dodd-Frank Act

2/10/17

DODD-FRANK ACT

- ✓ President Trump signed an executive order directing his administration to target provisions of the Dodd-Frank Act to change or eliminate within 120 days.
- ✓ The order did not specifically mention Dodd-Frank, but was coupled with statements by Trump claiming he'd cut "a lot out of Dodd-Frank."
- ✓ Dodd-Frank has protected taxpayers and consumers from risky banking practices – particularly those of Goldman Sachs, where a number of Trump cabinet members previously worked.
- ✓ Forbes reported that the Trump administration considered neutralizing the Consumer Financial Protection Bureau, which has returned at least $11.8 billion to 29 million consumers and impacted the lives of roughly 9% of Americans.
- ✓ The Trump administration also considered repealing the Volcker Rule, which prevented investment banks from unduly risking billions in taxpayer money on speculative markets and proprietary trading.
- ✓ Trump planned to eliminate the Conflict Minerals Rule, which required companies to disclose their use of minerals from the Democratic Republic of Congo in order to curb funding for resources harvested through terror by armed Congolese groups.

President Trump Signed An Executive Order Intended To Facilitate The Dismantling Of The Dodd-Frank Act

PRESIDENT TRUMP CALLED FOR HIS ADMINISTRATION TO IDENTIFY PROVISIONS OF DODD-FRANK TO MODIFY

President Trump Signed An Executive Order Calling For His Administration To Identify Provisions Of The Dodd-Frank Act For Potential Changes. According to The New York Times, "President Trump on Friday moved to chisel away at the Obama administration's legacy on financial reform, announcing a series of steps to revisit the rules enacted after the 2008 financial crisis and setting the stage for a showdown with Democrats over the future of Wall Street regulation. After a White House meeting with the executives, Mr. Trump signed a directive calling for his administration to identify potential changes to provisions of the Dodd-Frank Act, crafted by the Obama administration and passed by Congress in response to the 2008 meltdown." [New York Times, 2/3/17]

- **According To The New York Times, The Order Amounted To A "Broad Grant Authority To The Treasury Department To Find Ways Of Restructuring Major Provisions Of Dodd-Frank."** According to The New York Times, "The executive order impacting Dodd-Frank is vague in its wording and broad in its reach; it never mentions the Dodd-Frank law by name, instead laying out 'core principles' for regulating the financial system, including empowering American investors and enhancing the competitiveness of American companies. But it amounts to a broad grant of authority to the Treasury Department to find ways of restructuring major provisions of Dodd-Frank, directing the secretary to conduct a sweeping review of existing laws and make sure they align with the administration's goals." [New York Times, 2/3/17]

Trump Pledged To Cut "A Lot" From Dodd-Frank

Trump Said He Expected To Cut "A Lot Out Of Dodd-Frank" Because Many Of His Friends Who Owned Businesses Couldn't Borrow Money." According to The New York Times, "'We expect to be cutting a lot out of Dodd-Frank because frankly, I have so many people, friends of mine that had nice businesses, they can't borrow money,' Mr. Trump said in the State Dining Room during his meeting with business leaders." [New York Times, 2/3/17]

White House Economic Adviser Gary Cohn Said The Trump Administration Would "Attack All Aspects Of Dodd-Frank." According to CNNMoney, "And the face of the Trump administration's financial deregulation: Gary Cohn, who was Goldman Sachs (GS)' No. 2 executive until December. Cohn was named Trump's top economic adviser and walked away from Goldman with a $285 million haul that is raising conflict of interest concerns. On Friday, Cohn appeared on TV channels and granted interviews to explain the planned changes, telling Bloomberg, 'We're going to attack all aspects of Dodd-Frank.'" [CNNMoney, 2/6/17]

TRUMP ORDERED THE TREASURY SECRETARY TO CONSULT WITH THE FINANCIAL STABILITY OVERSIGHT COUNCIL (FSOC) ON THE STATE OF THE U.S. FINANCIAL SYSTEM

The Executive Order Called For The Secretary Of The Treasury To Consult With The Heads Of The Member Agencies Of The Financial Stability Oversight Council And To Report To The President Within 120 Days On The Federal Regulation Of The U.S. Financial System. According to the Executive Order: Core Principles for Regulating the United States Financial System, "The Secretary of the Treasury shall consult with the heads of the member agencies of the Financial Stability Oversight Council and shall report to the President within 120 days of the date of this order (and periodically thereafter) on the extent to which existing laws, treaties, regulations, guidance, reporting and recordkeeping requirements, and other Government policies promote the Core Principles and what actions have been taken, and are currently being taken, to promote and support the Core Principles. That report, and all subsequent reports, shall identify any laws, treaties, regulations, guidance, reporting and recordkeeping requirements, and other Government policies that inhibit Federal regulation of the United States financial system in a manner consistent with the Core Principles." [Executive Order: Core Principles for Regulating the United States Financial System, 2/3/17]

The Financial Stability Oversight Council Monitored The Stability Of The U.S. Financial System, And Was Created By Dodd-Frank

The Financial Stability Oversight Council "Provides […] Comprehensive Monitoring Of The Stability Of Our Nation's Financial System." According to the Financial Stability Oversight Council website, "As established under the Dodd-Frank Wall Street Reform and Consumer Protection Act, the Council provides, for the first time, comprehensive monitoring of the stability of our nation's financial system." [Treasury.gov/initiatives/FSOC, accessed 2/3/17]

"The Council Is Charged With Identifying Risks To The Financial Stability Of The United States; Promoting Market Discipline; And Responding To Emerging Risks To The Stability Of The United States' Financial System." According to the Financial Stability Oversight Council website, "The Council is charged with identifying risks to the financial stability of the United States; promoting market discipline; and responding to emerging risks to the stability of the United States' financial system. The Council consists of 10 voting members and 5 nonvoting members and brings together the expertise of federal financial regulators, state regulators, and an independent insurance expert appointed by the President." [Treasury.gov/initiatives/FSOC, accessed 2/3/17]

The FSOC "Aimed To Resolve Failing Large Firms […] Without A Government Bailout Or Next Crisis." According to Forbes, "The Act also created new regulatory agencies such as a Financial Stability Oversight Council (FSOC), which aimed to resolve failing large firms, for instance another Lehman Brothers, without a government bailout or next crisis." [Forbes, 2/3/17]

The Brookings Institution's Martin Neil Baily And Aaron Klein And The Bipartisan Policy Center's Justin Schardin: "Dodd-Frank Took A Positive Step Forward By Creating The FSOC." According to a study by the Brookings Institution's Martin Neil Baily and Aaron Klein and the Bipartisan Policy Center's Justin Schardin, "As previously stated, Dodd-Frank took a positive step forward by creating the FSOC and the OFR as macro-prudential regulators. Such systemic oversight was a major gap in pre-crisis regulation, and the agencies were also assigned the jobs of plugging gaps in financial data and improving coordination among FSOC member agencies." [Martin Neil Baily, Aaron Klein, and Justin Schardin via Russell Sage Foundation, 1/4/17]

SEC Chair Mary Jo White: The FSOC "Provides A Formal Forum For Coordination Among The Various Financial Regulators." According to testimony by SEC chair Mary Jo White before the House Committee on Financial Services, "In addition, the Council provides a formal forum for coordination among the various financial regulators, a structure that, during my tenure, has resulted in at least monthly meetings or teleconferences among members. This kind of collaborative sharing of information and concerns is, in my view, very important to safeguarding the U.S. financial system." [Mary Jo White Testimony via SEC.gov, 12/8/15]

Dodd-Frank Protected Consumers And Taxpayers From Risky Banking Practices, And Aimed To Prevent Financial Panic

Dodd-Frank Was Passed To Provide "More Protections For Consumers And American Taxpayers From Risky Banking Practices." According to Forbes, "In reaction to the failure of Lehman Brothers and the almost total bank collapse of 2008, Congress passed the Dodd-Frank Wall Street Reform and Consumer Protection Act in 2010. Most of this complex legislation dealt with regulating the financial services industry, and providing more protections for consumers and American taxpayers from risky banking practices. But also included in Dodd-Frank were greater transparency requirements, such as details of executive compensation and how compensation was linked to company performance." [Forbes, 8/16/15]

Dodd-Frank Put More Oversight On "Too Big To Fail" Institutions. According to the New York Times, "The banks themselves did because it made them money. The financial reform law takes two tacks in dealing with these institutions. First, Dodd-Frank tries to figure out who they are and charge them for being too big. This is done by raising their regulatory costs through more oversight and supervision. It means more governmental red tape for these banks, but also ostensibly fewer problems because of it. Regardless, one purpose of this increased regulation is to impose a regulatory tax on big banks to push them to be smaller." [New York Times, 10/16/12]

- **Dodd-Frank Was Meant To "Impose A Regulatory Tax On Big Banks To Push Them To Be Smaller."** According to the New York Times, "Dodd-Frank tries to figure out who they are and charge them for being too big. This is done by raising their regulatory costs through more oversight and supervision. It means more governmental red tape for these banks, but also ostensibly fewer problems because of it. Regardless, one purpose of this increased regulation is to impose a regulatory tax on big banks to push them to be smaller." [New York Times, 10/16/12]

Dodd-Frank Helped To Create A Path To "Put Big Institutions Into […] An Orderly Receivership That Avoids A General Financial Panic" And Avoid Bankruptcy In The Event Of A Massive Financial Failure. According to the New York Times, "Dodd-Frank addresses the 'Lehman' problem — that bankruptcy may not work for a huge financial failure. Instead, a new regime is created to put big institutions into what is hoped to be an orderly receivership that avoids a general financial panic, something that unfortunately happened when Lehman Brothers filed for bankruptcy in September 2008." [New York Times, 10/16/12]

Business Finance Magazine: Dodd-Frank Presents "Significant Challenges To Financial Institutions, But It Also Offers Potential Benefits" Such As "Increased Profitability, A Stronger Competitive Program And Better Risk Management." According to Business Finance Magazine, "The Dodd-Frank Act has been called the most comprehensive set of U.S. regulatory reform measures since the Great Depression. Accenture recently conducted a quantitative, global online survey of companies in the financial services and resource industries in both North America and Europe to assess attitudes and preparedness for Dodd-Frank. […] As implementation of Dodd-Frank has progressed, affected companies have developed a better understanding of the Act's potential benefits as well as its anticipated costs and implications. Dodd-Frank does present significant challenges to financial institutions, but it also offers potential benefits in terms of increased profitability, a stronger competitive position and better risk management. Firms that have not established a comprehensive program for dealing with Dodd-Frank may wish to review the current state of play and accelerate efforts to achieve both regulatory compliance and broader strategic goals." [Business Finance Magazine, 6/5/13]

The Trump Administration Hoped To Weaken The Consumer Financial Protection Bureau

FORBES REPORTED THAT THE TRUMP ADMINISTRATION HOPED TO REPLACE CFPB HEAD RICHARD CORDRAY IN AN EFFORT TO WEAKEN THE AGENCY

According To The New York Times, The Trump Administration Sought To Replace CFPB Head Richard Cordray In An Effort To Neutralize The Agency. According to Forbes, "Finally, it appears the Trump administration may seek to replace CFPB head Richard Cordray, in a first step towards neutralizing the regulatory agency." [Forbes, 2/3/17]

Cordray Had A Reputation Of Aggressively Fighting For Consumer Protections

CFPB Director Richard Cordray Aggressively Went After Businesses That Took Advantage Of Consumers. According to the Washington Post, "Will the Trump administration replace the CFPB's current director, Richard Cordray — who has been aggressively going after businesses that take advantage of consumers — with someone who is cozy with corporate America? Cordray's term isn't up until 2018, but a court has ruled that he can be removed at will by the president." [Washington Post, 11/15/16]

THE CFPB ENFORCED CONSUMER PROTECTIONS AND CLAMPED DOWN ON RISKY LOANS THAT LED TO THE 2008 FINANCIAL CRISIS

The Los Angeles Times Reported That The Consumer Financial Protection Bureau Was "A Strict Enforcer Of Consumer Protection Laws And "Has Crafted A Bevy Of New Rules That Apply To Mortgage Lenders, Banks, Credit Card Companies And Other Financial Firms." According to the Los Angeles Times, "The administration official who previewed Friday's executive order said the law had, among other things, created 'new agencies that don't actually protect consumers.' That's a not-so-subtle swipe at the Consumer Financial Protection Bureau, an agency created by the Dodd-Frank act that has been a strict enforcer of consumer protection laws and that has crafted a bevy of new rules that apply to mortgage lenders, banks, credit card companies and other financial firms." [Los Angeles Times, 2/3/17]

Los Angeles Times: The CFPB's Rules Have Made It "Less Attractive" For Mortgage Lenders To "Make Some Types Of Risky Loans That Went Bad And Sparked Last Decade's Financial Crisis." According to the Los Angeles Times, "The bureau's rules have made it less attractive — though not illegal — for mortgage lenders to make some types of risky loans that went bad and sparked last decade's financial crisis." [Los Angeles Times, 2/3/17]

BY SEPTEMBER 2016, THE CFPB HAD HANDLED NEARLY 1 MILLION CONSUMER COMPLAINTS AND RETURNED APPROXIMATELY $11.8 BILLION TO 29 MILLION CONSUMERS, IMPACTING THE LIVES OF ABOUT9% OF AMERICANS

The Huffington Post Reported In September 2016 That The CFPB Handled More Than 930,000 Consumer Complaints Ranging From Mortgages And Bank Accounts To Payday Loans And Virtual Currency. According to the Huffington Post, "The CFPB has a large online complaint database that is accessible to both citizens and corporations. According to The Wall Street Journal, CFPB 'has (handled) more than 930,000 consumer complaints on a range of financial services from mortgages and bank accounts to payday loans and virtual currency.'" [Huffington Post, 9/13/16]

The Consumer Financial Protection Bureau HadBeen Responsible For Returning Roughly $11.8 Billion To Some 29 Million Consumers Since Its Inception In 2011. According to Fortune, "Within days of being sworn in, President Donald Trump has already pledged to cut business regulations by 75%. One way he is likely to fulfill that promise, at least in part, is by defanging a legacy of the 2008 financial crisis: the Consumer Financial Protection Bureau. That could mean the functional end to the consumer watchdog, which has been responsible for returning roughly $11.8 billion to some 29 million consumers since its inception in 2011, according to data from the bureau." [Fortune, 1/27/17]

- **The CFPB Returned An Average Of $407 To Each Affected Consumer, Affecting Roughly 9% Of The U.S. Population.** According to Fortune, "That could mean the functional end to the consumer watchdog, which has been responsible for returning roughly $11.8 billion to some 29 million consumers since its inception in 2011, according to data from the bureau. That's an average of $407 returned to each affected consumer, affecting roughly 9% of the U.S. population (assuming no single consumer was a victim in more than one case)." [Fortune, 1/27/17]

THE CFPB UNCOVERED THE WELLS FARGO SCAM AND OTHER BANKING AND PAYMENT SCAMS

<u>The CFPB Revealed Wells Fargo's Unethical Behavior And Was A Key Player In Reaching Their $185 Million Settlement In September 2016</u>

The CFPB Revealed That Wells Fargo Employees Had Opened 2 Million Phony Accounts Without Consumer Permission, Leading To $2.6 Million In Unexpected Fines And Charges For Clients. According to Fortune, "In September 2016, the CFPB revealed that Wells Fargo employees had opened 2 million phony accounts without consumer permission, leading to unexpected fines and charges showing up on client's statements totalling $2.6 million, or $25 per person. The general public was outraged, as were government officials, causing then-CEO John Stumpf to resign." [Fortune, 1/27/17]

- **The CFPB Was A Key Player In Reaching A $185-Million Settlement With Wells Fargo.** According to the Los Angeles Times, "The agency has been praised by Democrats and consumer advocates for cracking down on abuses by financial firms. It was a key player in the $185-million settlement that Wells Fargo & Co. agreed to pay last year for the creation of as many as 2 million accounts without customer authorization." [Los Angeles Times, 2/3/17]

The CFPB Uncovered A PayPal Credit Line Scam And Ordered The Company To Pay $15 Million To Consumers And A $10 Million Fine

The CFPB Uncovered A PayPal Scheme Of Signing Consumers Up For Credit Lines They Had Not Asked For And Ordered The Company To Pay $15 Million To Consumers And A $10 Million Fine. According to Fortune, "In a somewhat similar case, the CFPB accused PayPal of signing consumers up for credit lines they had not asked for. PayPal was ordered to pay consumers $15 million, and was fined $10 million." [Fortune, 1/27/17]

The CFPB Ordered U.S. Bank To Refund Customers $48 Million For A Billing Scam

The CFPB Ordered U.S. Bank Refund $48 Million For Illegally Billing Customers. According to the Huffington Post, "In 2014, when a company named U.S. Bank illegally billed customers for services they never received, the Consumer Financial Protection Bureau ordered that the bank refund those consumers $48 million." [Huffington Post, 9/13/16]

THE CFPB FOUGHT TO PROTECT CONSUMERS FROM UNETHICAL USURY AND BUSINESS TACTICS, INCLUDING IMPROPER FORECLOSURE PRACTICES, PAYDAY LOANS, AND DISCRIMINATION

Forbes: The CFPB Has Played Prominently In Combating Usury, Improper Foreclosure Practices, And Payday Loans. According to Forbes, "The CFPB has also played prominently in combating usury, improper foreclosure practices, and payday loans that can leave the poor under a mountain of debt." [Forbes, 2/3/17]

The CFPB Has Uncovered And Punished For-Profit Colleges For Unfair Student Loan Practices, Including Securing $500 Million From Corinthian College For Promising False Job Prospects And Targeting Low Income Students With Predatory Loans. According to Fortune, "Targeting unfair student-loan practices has been high on the bureau's list of priorities. In 2014, the bureau sued Corinthian College, alleging that the for-profit chain touted bogus job prospects to lure low-income students into taking out private loans to cover tuition. Those loans often came with higher-than-average interest rates, and the students were more likely to default. When a student defaulted, Corinthian would strong-arm the borrower into making a repayment, using tactics including withholding the student's diploma. The CFPB called for over $500 million in relief for borrowers." [Fortune, 1/27/17]

The CFPB Has Targeted "Debt Trap" Payday Lending. According to Fortune, "The CFPB has dubbed payday lending a 'debt trap' for its unusually high interest rates. A typical two-week payday loan may come with an annual percentage rate ranging from 260% to over 780%, according to the CFPB. By comparison, credit card APRs usually range between 12% to 30%. Additionally, payday loans are mostly taken out by those who are least likely to be able to afford the additional interest expense. In July 2014, the CPFB ordered payday lender ACE Cash Express to refund consumers $5 million for pressuring consumers into a 'cycle of debt.' The bureau obtained a copy of the lender's training manual, showing a physical circle in which consumers who cannot repay their loans to ACE must take out another short-term loan." [Fortune, 1/27/17]

The CFPB, Along With The Department Of Justice, Has Fined Lenders For Discriminatory Practices. According to Fortune, "In conjunction with the Department of Justice, the bureau has also fined lenders for discriminatory practices. National City Bank was called to pay $35 million for charging Black and Hispanic borrowers with higher mortgage loan pricers [*sic*] than white borrowers with the a similar credit score between 2003 to 2008.In 2013, the CPFB and DOJ jointly ordered Ally Bank to pay $80 million in damages to minority borrowers, saying that the bank had charged Black, Hispanic, Asian, and Pacific Islander borrowers higher interest rates. The case affected over 235,000 minority borrowers." [Fortune, 1/27/17]

The CFPB Cracked Down On Deceptive And Unfair Mortgage Loan Practices, Including Requiring Ocwen Financial Corporation To Provide $2 Billion In Relief To Underwater Borrowers And Return $125 Million To Its Foreclosed Borrowers. According to the Center for American Progress, "The CFPB helps prevent consumers from being harmed, especially in the mortgage market. Consider what happened with Ocwen Financial Corporation, the country's largest nonbank mortgage loan servicer, and its subsidiary, Ocwen Loan Servicing. As the CFPB has detailed, Ocwen took advantage of homeowners at nearly every stage of the mortgage servicing process. It inaccurately reported payments, charged borrowers unauthorized fees, and provided misleading information when customers complained. Ocwen did not inform its customers about foreclosure alternatives and failed to accurately calculate borrowers' eligibility for loan modifications—or denied them completely. These deceptive and unfair practices contributed to foreclosures for nearly 185,000 borrowers. The CFPB took swift and decisive action. Under the bureau's direction, Ocwen gave $2 billion in relief to underwater borrowers and returned $125 million to its foreclosed borrowers." [Center for American Progress, 7/21/15]

THE CFPB'S INDEPENDENT FUNDING STRUCTURE THROUGH THE FEDERAL RESERVE HAS ALLOWED IT TO STAY ABOVE THE POLITICAL FRAY

The CFPB Has Received Its Funding From The Federal Reserve, Not Congress, Allowing The Agency To Focus Solely On Protecting Consumers Rather Than Playing Politics. According to the Washington Post, "One of the major criticisms of the CFPB is that it is an unaccountable bureaucracy, because its funding comes from the Federal Reserve and not Congress. But that's a good thing. Congress wants to hold the purse strings so it can make the CFPB dance for it. But this puts the agency in the position of playing politics when it should be singularly focused on protecting consumers. In other words, the CFPB works for us — we the consumers, who don't have as much money or lobbying power as well-heeled financial companies." [Washington Post, 11/15/16]

- **Transitioning The CFPB To Congressional Funding Could Hurt Its Independence And Allow It To Be Denied Funding.** According to CNN, "Treasury secretary nominee Steven Mnuchin has said he thinks the CFPB is worth keeping, but suggested it should be funded by Congress, not the Federal Reserve. Such a move could hurt the CFPB's independence, allowing Republicans to starve it of funding." [CNN, 2/3/17]

THE CFPB HAS MADE TANGIBLE IMPROVEMENTS IN THE LIVES OF REAL PEOPLE

The CFPB Helped William Take Care Of A Credit Card Company Who Had Wrongfully Solicited Him For A $8,500 Charge, Nearly Ruining His Credit When He Did Not Pay. According to the Consumer Financial Protection Bureau, "[William] Maybe two and a half years later I get contact from the credit card company to let me know that my account was overdue, seriously overdue. I asked them what account was that, they explained it to me. And at that point this was my first knowledge that I actually held this account in my own name. This started a saga that continued for somewhere around four, maybe four and a half, years. I spoke to over a hundred and twenty counselors from this credit card company. None of them could do anything else except tell me I had to pay them the $8,500. My credit was ruined and I had been denied a refinancing of our house… until I finally got help from the CFPB. And when I got to the website, there was a section where there was people's stories. You can upload information, documents to the CFPB website and within 24 hours I had received an acknowledgement that the CFPB was looking at the situation. And within 7, I think maybe 8 days, I got an actual letter back from the credit card company that intimated that they were apologetic about what they had been doing to me. And then the next day I received another letter from them telling me that they were removing everything adverse from my credit report." [Consumer Financial Protection Bureau, accessed 2/3/17]

The CFPB Fought On Behalf Of A U.S. Soldier, Ari, Who Had Been Targeted With A Predatory Car Loan. According to the Consumer Financial Protection Bureau, "Ari: I found out about the program that gave me the car loan just by driving off base. There's car dealerships everywhere and they all have programs tailored towards servicemembers. When the dealership found out that I was a soldier, they promised me…they'd put me in a car I could afford. [Harry] From looking at the whole program, I found that the loan was unsustainable. At some point I decided there would be a need to lodge a formal complaint against this company because they were victimizing soldiers. And I wrote to the Consumer Financial Protection Bureau in Washington, DC, a detailed letter of my son's experience and my knowledge of other soldiers who had been victimized in this way. I'm very glad that my story started an investigation, I had kind of given up hope on getting a response from anybody, but it turns out that when I did, the CFPB had been investigating my story… […] Ari: The fact that the CFPB took action in the name of servicemembers across the country, it shows us that someone's in our corner. As a soldier you think that you have to fight, but you can't always fight. It's great to know we have someone in our corner too." [Consumer Financial Protection Bureau, accessed 2/3/17]

The CFPB Has Helped College Students Like Leah Find The Most Affordable Loan Repayment Systems. According to the Consumer Financial Protection Bureau, "My name is Leah and I'm from Columbus, Ohio. Photography is my passion. I'm the archivist for the Columbus College of Art and Design. My student loans were so stressful. Probably the last year of school here I was up late thinking about how I was going to pay these off. I had $23,000 in debt. And I was just worried about my future. After hearing about the CFPB on the news, I went to the website and right there was Paying for College. You answer a series of questions, yes, no, not sure, and you get to the end and it suggests a repayment system for you. Mine was the Income Based Repayment plan which significantly lowered my student loan payments. And it's a lot less stressful now." [Consumer Financial Protection Bureau, accessed 2/3/17]

The Trump Administration Hoped To Repeal The Volcker Rule, Which Prevented Large Banks From Gambling With Taxpayer Funds In Risky Proprietary Trading

TREASURY SECRETARY NOMINEE STEVEN MNUCHIN SAID HE HOPED TO REPEAL THE VOLCKER RULE IF CONFIRMED

Treasury Secretary Nominee Steven Mnuchin Indicated That He Would Look To Repeal The Volcker Rule If He Were To Be Confirmed. According to Forbes, "Other areas of early focus will surround the Volcker Rule, a mandate named after former Federal Reserve chair Paul Volcker, which restricted banks from proprietary trading and limited their ability to make hedge fund and private equity investments. Trump's Treasury Secretary nominee Steven Mnuchin, another former Goldman partner, has said he would look to repeal the rule." [Forbes, 2/3/17]

THE VOLCKER RULE RESTRICTED INVESTMENT BANKS FROM PROPRIETARY TRADING, WHICH PUT TAXPAYER CAPITAL AT UNNECESSARY RISK

The Volcker Rule Restricted Banks From Proprietary Trading And Limited Their Hedge Fund And Private Equity Investments In Order To Reduce Capital Risk On Wall Street. According to Forbes, "Other areas of early focus will surround the Volcker Rule, a mandate named after former Federal Reserve chair Paul Volcker, which restricted banks from proprietary trading and limited their ability to make hedge fund and private equity investments." [Forbes, 2/3/17]

- **Former Federal Reserve Chairperson Paul Volcker Argued That Banks Had "Unmanageable Conflicts Of Interest" When Making Investments Simultaneously For Clients And Themselves Through Speculative Investments.** According to The Washington Post, "Senior administration officials say there is now broad consensus within the White House and the Treasury for the plan advanced by Volcker, who leads an outside economic advisory group for the president. At its heart, Volcker's plan restricts banks from making speculative investments that do not benefit their customers. […] To make his case, he met with lawmakers on Capitol Hill and gave numerous speeches on the subject, traveling to at least nine cities on several continents to warn that banks had developed 'unmanageable conflicts of interest' as they made investments for clients and themselves simultaneously." [Washington Post, 1/22/10]

Proprietary Trading By Large Banks Shifted Risk To The Taxpayer, And Didn't Have A Large Impact On The Economy. According to The Washington Post, "And there is a broader argument that when giant banks that carry an implicit public safety net (through things like FDIC deposit insurance and access to emergency Fed lending) do speculative trading, they are essentially shifting risks onto the taxpayer without any real benefit to the economy." [Washington Post, 12/10/13]

Repealing The Volcker Rule Would Benefit Large Investment Banks, Especially Goldman Sachs – Where Treasury Secretary Steven Mnuchin Formerly Served As A Partner

Forbes Reported That Repealing The Volcker Rule Would "Likely Gin The Operations" Of Large American Banks Such As Goldman Sachs. According to Forbes, "Trump's Treasury Secretary nominee Steven Mnuchin, another former Goldman partner, has said he would look to repeal the rule. […] Going back to old trading standards would likely gin the operations of America's largest banks such as Cohn's former employer Goldman Sachs, JPMorgan, Bank of America, Morgan Stanley and Citigroup." [Forbes, 2/3/17]

- **Treasury Secretary Steven Mnuchin Formerly Served As A Partner At Goldman Sachs.** According to Forbes, "Trump's Treasury Secretary nominee Steven Mnuchin, another former Goldman partner, has said he would look to repeal the rule. […] Going back to old trading standards would likely gin the operations of America's largest banks such as Cohn's former employer Goldman Sachs, JPMorgan, Bank of America, Morgan Stanley and Citigroup." [Forbes, 2/3/17]

Repealing The Volcker Rule May Shift The Staffing Balance On Wall Street, Since Many Investors Left Brokerage Firms In Favor Of Less Regulated Entities Like Hedge Funds And Private Equity Firms. According to Forbes, "Due to the Volcker Rule, some of the best investing talent fled hamstrung brokerages for less regulated entities such as hedge funds and private equity firms." [Forbes, 2/3/17]

- **The Volcker Rule Allowed Private Equity Firms To Expand Into Areas Like Real Estate Investing By Restricting The Ability Of Investment Banks To Make Private Equity Investments.** According to Forbes, "Other areas of early focus will surround the Volcker Rule, a mandate named after former Federal Reserve chair Paul Volcker, which restricted banks from proprietary trading and limited their ability to make hedge fund and private equity investments. […] The years since the crisis allowed private equity firms like Blackstone, Apollo, KKR and Carlyle to expand in businesses like real estate investing, where investment banks once were forceful competitors, and it all but exited firms from the leveraged buyout business." [Forbes, 2/3/17]

Goldman Sachs Was The "Most Exposed" Bank To The Effects Of The Volcker Rule

According To CNBC In June 2010, Goldman Sachs Was The "Most Exposed" Bank To The Effects Of The Volcker Rule. According to CNBC, "Citigroup (NYSE: C) analysts have come out with a list of the banks that are 'most exposed' to the on-going financial reform effort, which should be culminating soon. Assuming the Volcker Rule and some form of the Blanche Lincoln rule pass, the most exposed would appear to be Goldman Sachs, followed by Morgan Stanley, JPMorgan and Bank of America." [CNBC, 6/16/10]

- **As Of June 2010, Goldman Sachs Generated Approximately 10 Percent Of Its Revenue From Proprietary Trading.** According to The Atlantic, "According to a report from CNBC earlier this week, the 3% limit will likely only significantly affect Goldman Sachs, which generates around 10% of its revenue from proprietary trading." [The Atlantic, 6/25/10]

The Volcker Rule Was Designed To Prevent Incidents Like The JPMorgan's 2012 "London Whale" Event, Which Resulted In $6 Billion In Trading Losses

Proprietary Trading By A Trader Nicknamed The "London Whale" Resulted In More $6 Billion In Trading Losses For JPMorgan Chase In 2012. According to The New Yorker, "Last week, federal authorities criminally indicted two former JPMorgan Chase & Co. employees who allegedly hid losses related to a trading scandal last year that cost the bank more than six billion dollars. […] Despite its shortcomings and critics, VaR had been working reasonably well in identifying risks at JPMorgan Chase. The bank also used four other risk-management tools. Then came the notorious trades of 2012 by Bruno Iksil, a former trader since nicknamed the London Whale because of the enormity of his trading positions. […] The long-awaited implementation of Dodd-Frank provisions such as the Volcker Rule, which would have explicitly prohibited a commercial bank like JPMorgan from making proprietary bets like the Whale trades, will give regulators new tools and sources of information." [New Yorker, 8/21/13]

- **According To Former Treasury Secretary Jack Lew, The Volcker Rule Would Keep Incidents Like JPMorgan Chase "London Whale" Episode From Happening Again.** According to The Washington Post, "Just because proprietary trading wasn't the leading cause of the last crisis doesn't mean losses on large trading positions didn't contribute to the crisis. And trading could easily cause future problems for a too-big-to-fail institution. It's a pattern that has replayed through history; the $6 billion trading losses by JPMorgan Chase in the recent 'London Whale' episode is a prime example. […] The [Volcker] rule will certainly keep banks out of some areas that have proven risky in the past and exposed them to losses. Lew has said the rule would keep the London Whale trading loss from happening again, for example." [Washington Post, 12/10/13]

Trump Planned To Eliminate A Provision Of The Dodd-Frank Act That Required Companies To Report The Use Of Certain Minerals From The Democratic Republic Of Congo

THE TRUMP ADMINISTRATION PLANNED TO TARGET DODD-FRANK'S "CONFLICT MINERALS" RULE

Reuters Reported That Trump Was Planning To Issue An Executive Order Addressing A Rule In The Dodd-Frank Act Requiring Companies To Disclose Their Use Of "Conflict Minerals" From Certain Parts Of Africa. According to Reuters, "President Donald Trump is planning to issue an executive order targeting a controversial Dodd-Frank rule that requires companies to disclose whether their products contain 'conflict minerals' from a war-torn part of Africa, according to sources familiar with the administration's thinking." [Reuters, 2/8/17]

- **The Global Information Network Reported That Conflict Minerals In The Democratic Republic Of The Congo Were Harvested Through "Exploitation And Terror During Or After A Conflict."** According to the Global Information Network, "A rule requiring public companies to report their use of so-called 'conflict minerals' from Congo may soon be eliminated. […] Conflict resources include lumber, oil, diamond, gold, cobalt, oil, among others that are harvested through exploitation and terror during or after a conflict." [Global Information Network, 2/7/17]

Acting SEC Chair Michael Piwowar Told His Staff To Consider Providing "Additional Relief" For Companies Complying With The Conflict Minerals Rule

Piwowar Asked SEC Staff To Consider Providing "Additional Relief" For Companies Regarding Their Compliance With The Conflict Minerals Rule. According to a press release by U.S. Securities and Exchange Commission acting chairman Michael S. Piwowar, "In April 2014, the Court of Appeals for the D.C. Circuit held that a portion of the disclosure required by the Commission's Conflict Minerals Rule violated the First Amendment. […] In the interim, the temporary transition period provided for in the Rule has expired. And the reporting period beginning January 1, 2017, is the first reporting period for which no issuer falls within the terms of that transition period. In light of this, as well as the unexpected duration of the litigation, I am directing the staff to consider whether the 2014 guidance is still appropriate and whether any additional relief is appropriate in the interim." [U.S. Securities and Exchange Commission, 1/31/17]

- **The National Law Review Noted That Piwowar Did Not Mention The Possibility Of Strengthening The Rule.** According to The National Law Review, "In a move that has already been widely reported, on January 31, 2017, the SEC's Acting Chairman Michael Piwowar issued a statement on the SECs conflict minerals rule, in which he directed the SEC staff to 'consider whether the [April] (brackets in original) 2014 guidance is still appropriate and whether any additional relief is appropriate in the interim.' Interestingly, he called for comments only about whether additional relief from requirements should be given, and not about whether any elements of the rule should be strengthened." [National Law Review, 2/2/17]

- **Piwowar Called The Rule "Misguided," And Claimed That It Hadn't Reduced Conflict In The DRC.** According to the Global Information Network, "A rule requiring public companies to report their use of so-called 'conflict minerals' from Congo may soon be eliminated. […] This week, newly appointed Republican acting chairman of the SEC, Michael Piwowar, called the rule 'misguided,' saying there is little proof it has reduced conflict or eased humanitarian suffering in Congo." [Global Information Network, 2/7/17]

Dodd-Frank Gave The President The Authority To Temporarily Suspend The Conflict Minerals Rule If A Suspension Was In The Interest Of National Security

The Dodd-Frank Act Gave The President Authority To Order The SEC To Temporarily Suspend The Conflict Minerals Rule If It Was In The Interest Of National Security. According to Reuters, "President Donald Trump is planning to issue an executive order targeting a controversial Dodd-Frank rule that requires companies to disclose whether their products contain 'conflict minerals' from a war-torn part of Africa, according to sources familiar with the administration's thinking. […] However, the 2010 Dodd-Frank law explicitly gives the president authority to order the Securities and Exchange Commission to temporarily suspend or revise the rule for two years if it is in the national security interest of the United States." [Reuters, 2/8/17]

THE CONFLICT MINERALS RULE AIMED TO CUT OFF FUNDING FOR ARMED GROUPS IN THE DRC

The Conflict Minerals Rule Was Intended To Curb The Funding Of Armed Groups In The DRC. According to Reuters, "President Donald Trump is planning to issue an executive order targeting a controversial Dodd-Frank rule that requires companies to disclose whether their products contain 'conflict minerals' from a war-torn part of Africa, according to sources familiar with the administration's thinking. […] The conflict minerals rule was pushed by human rights groups who want companies to tell investors if their products contain tantalum, tin, gold or tungsten mined from the Democratic Republic of Congo, in the hopes it will help curb the funding of armed groups." [Reuters, 2/8/17]

- **The Global Information Network Reported That Eliminating The Conflict Materials Rule Would Benefit Congolese Armed Groups That Provide Cover For The Multinational Corporations That Buy The Minerals.** According to the Global Information Network, "A rule requiring public companies to report their use of so-called 'conflict minerals' from Congo may soon be eliminated. The change under review by the Securities and Exchange Commission could benefit the armed groups that control many of the small mines and provide cover to multinational corporations who buy the resources often at cut rate prices – increasing the region's potential for conflict." [Global Information Network, 2/7/17]

Eliminating The Dodd-Frank Conflict Minerals Rule Could Enrich Armed Groups In Africa That Commit Human Rights Absues. According to Human Rights Watch, "A move reportedly under consideration by the Trump administration to suspend a rule requiring companies to disclose their source for gold and other potential 'conflict minerals' could enrich abusive armed groups in Africa. Suspension of the rule, known as Dodd-Frank 1502, would undermine positive efforts to eliminate conflict minerals from the supply chain of major companies. The trade in these minerals has enriched abusive armed groups in Congo and neighboring countries, Human Rights Watch said." [Human Rights Watch, 2/10/17]

Eliminating The Conflict Minerals Rule Could Encourage Crimes Against Humanity And Create A Competitive Disadvantage For Responsible Companies

The Conflict Minerals Rule Was Implemented To Combat The War Crimes And Crimes Against Humanity That Had Been Committed By Armed Groups. According to Human Rights Watch, "A 2005 Human Rights Watch report, 'The Curse of Gold,' documented how local armed groups fighting for the control of gold mines and trading routes in Congo committed war crimes and crimes against humanity using the profits from gold to fund their activities and buy weapons. In one case, during 18 months of conflict in 2002 and 2003, armed groups fought to control a gold mining town in the Ituri region. As the town changed hands five times, the warlords slaughtered 2,000 civilians, carried out summary executions, raped, tortured, and otherwise abused civilians and arbitrarily detained people they saw as enemies. Tens of thousands of civilians were forced to flee their homes, losing much or all they owned to looting or destruction." [Human Rights Watch, 2/10/17]

Human Rights Watch: Suspending The Dodd-Frank Conflict Minerals Rule "Would Create A Competitive Disadvantage For Responsible Companies And Benefit Others That Do Not Want To

Disclose Their Sourcing." According to Human Rights Watch, "Suspension would create a competitive disadvantage for responsible companies and benefit others that do not want to disclose their sourcing to deter the trade in conflict minerals, Human Rights Watch said." [Human Rights Watch, 2/10/17]

Human Rights Watch: "Major Companies Such As Apple, Intel, And Tiffany & Co Have Made Effective Efforts To Comply With The Rule," And "Tiffany & Co Has Urged That The Rule Be Left In Place." According to Human Rights Watch, "Since its implementation, major companies such as Apple, Intel, and Tiffany & Co have made effective efforts to comply with the rule. Tiffany & Co has urged that the rule be left in place. Other companies have also welcomed the rule and said efforts to ensure their operations are conflict-free are now integral to their operations." [Human Rights Watch, 2/10/17]

Human Rights Watch Director Arvind Ganesan Characterized Repealing The Conflict Minerals Rule As Antithetical To The Trump Administration's "Drain The Swamp" Rhetoric

Ganesan: "If The Trump Administration Wants To 'Drain The Swamp,' It Makes No Sense To Undermine Companies Trying To Keep Money Out Of The Hands Of Abusive Thugs." According to Human Rights Watch, "'If the Trump administration wants to 'drain the swamp,' it makes no sense to undermine companies trying to keep money out of the hands of abusive thugs,' said Arvind Ganesan, business and human rights director at Human Rights Watch. 'Leading companies have embraced the rule and proven that it works.'" [Human Rights Watch, 2/10/17]